

BOEHM, KURTZ & LOWRY

ATTORNEYS AT LAW
36 EAST SEVENTH STREET
SUITE 1510
CINCINNATI, OHIO 45202
TELEPHONE (513) 421-2255
TELECOPIER (513) 421-2764



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2008 APR -2 P 1:16

AZ CORP COMMISSION
DOCKET CONTROL

Via Overnight Mail

April 1, 2008

Arizona Corporation Commission
Attn: Docket Filing Window
1200 Washington Street
Phoenix, AZ 85007

Re: Docket No. E-01345A-08-0172

Dear Sir or Madam:

Please find enclosed the original and thirteen (13) copies of the PETITION TO INTERVENE OF THE KROGER CO. in the above-referenced matter.

All parties of record have been served. Please place this document of file.

Very Truly Yours,

Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY

Arizona Corporation Commission
DOCKETED

APR 02 2008



MLKkew
Attachments

CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by regular U.S. mail (unless otherwise noted),
this 1ST day of April, 2008 on the parties listed on the attached service list.

A handwritten signature in black ink, appearing to read "K. Boehm", is written over a horizontal line.

Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.

SERVICE LIST IN DOCKET NO. E-01345A-08-172

Company	Contact	Address	Date Added
Arizona Corporation Commission	Lyn Farmer	1200 W. Washington Phoenix, Arizona 85007-2927	3/24/2008
Arizona Corporation Commission	Ernest Johnson	1200 W. Washington Phoenix, Arizona 85007-2927	3/24/2008
Arizona Corporation Commission	Chris Kempley	1200 W. Washington Phoenix, Arizona 85007-2927	3/24/2008
Arizona Public Service Company	Thomas Mumaw	PO Box 53999 Phoenix, Arizona 85072-3999	3/24/2008

BEFORE THE ARIZONA CORPORATION COMMISSION

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In The Matter Of The Application Of Arizona Public Service Company For A Hearing To Determine The Fair Value O The Utility Property Of The Company For Ratemaking Purposes, To Fix A Just And Reasonable Rate Of Return Thereon, To Approve Rate Schedules Designed To Develop Such Return	2008 APR -2 P 1:16 : AZ CORP COMMISSION DOCKET CONTROL : : :	Docket No. E-01345A-08-0172
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PETITION TO INTERVENE OF KROGER CO.

The Kroger Co. ("Petitioner") hereby petitions the Arizona Corporation Commission ("Commission") for leave to intervene and participate in the proceeding concerning the application of the Arizona Public Service Company ("Applicant"). In support of its Petition it states as follows:

1. Name and Addresses of Petitioner:

The Kroger Co.
Attn: Corporate Energy Manager (G09)
1014 Vine Street
Cincinnati, Ohio 45202
Telephone: 513-762-4538 Facsimile: 513-762-4012
E-mail: dgeorge@kroger.com

2. Name and Address of Attorneys Representing Petitioner:

Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
Telephone: 513-421-2255 Facsimile: 513-421-2764
E-mail: mkurtz@BKLawfirm.com
kboehm@BKLawfirm.com

3. **Name and Address of Consultant Representing Petitioner:**

Kevin Higgins
ENERGY STRATEGIES, LLC
Parkside Towers
215 South State Street, Suite 200
Salt Lake City, Utah 84111
Telephone: 801-355-4365 Facsimile: 801-521-9142
khiggins@energystrat.com

Mr. Kurtz is an out-of-state attorney licensed in Ohio, Pennsylvania, Michigan and Kentucky; and Mr. Boehm is an out-of-state attorney licensed to practice in Ohio and Kentucky. Kroger is in the process of retaining local counsel and will file a pro hac vice motion shortly.

4. **Identify the Petitioner:**

Petitioner is a retail electric customer of the Arizona Public Service Company (the "Company"). Petitioner has numerous grocery stores and other facilities that purchase their electric supply from the Company.

5. **Petitioner's Interest in this Proceeding:**

Kroger is a corporation engaged in the business of selling groceries at retail throughout the United States. One of the largest retail food companies in the United States, Kroger operates numerous grocery stores in the state of Arizona that purchase their electric supply from the Company. These stores purchase millions of kWh of electricity from the Company annually. Petitioner is one of the largest commercial customers served by the Company. The grocery stores operated by Kroger are high load factor facilities that use energy for food storage, lighting, heating, cooling and distribution, often on a 24 hour a day, 7 day a week basis. If the Company's application is granted, then the cost for electric power service to Petitioner could be substantially impacted. Accordingly, Petitioner has a substantial

and vital interest in the outcome of this proceeding which cannot be adequately represented by any other party.

6. Issues To Be Raised:

The primary issue the Petitioner intends to address in this case will be whether the rate increase sought by the Applicant is reasonable and cost justified. We also intend to address whether the proposed allocation of the rate increase and the design of the new rates are just and reasonable.

WHEREFORE, for the reasons set forth above, Petitioner requests that this Petition to Intervene be granted.

DATED this 1st day of April, 2008.



Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
Ph: 513-421-2255 Fax: 513-421-2764
e-mail: mkurtz@BKLawfirm.com
kboehm@BKLawfirm.com